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21 [Additional Counsel Listed on Signature Page]

22 **UNITED STATES DISTRICT COURT**
23 **NORTHERN DISTRICT OF CALIFORNIA**
24 **SAN FRANCISCO DIVISION**

25 IN RE: UBER TECHNOLOGIES, INC.,
26 PASSENGER SEXUAL ASSAULT
27 LITIGATION

28 This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

DEFENDANTS UBER TECHNOLOGIES,
INC., RASIER, LLC, RASIER-CA, LLC'S
STATEMENT IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIALS
SHOULD BE SEALED [ECF NO. 2439]

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

DEFENDANTS' STATEMENT IN SUPPORT OF SEALING**CONFIDENTIAL MATERIALS**

Pursuant to Civil Local Rules 79-5(f)(3) and (c)(1) and the Protective Order entered in this case dated December 28, 2023, ECF 176 (“Protective Order”), Defendants Uber Technologies, Inc., Rasier, LLC, Rasier-CA, LLC (collectively “Uber”), respectfully submit this statement in support of Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should Be Filed Under Seal, dated March 5, 2025, ECF 2439 (“Plaintiffs’ Motion(s)”).

I. BACKGROUND AND REQUESTED SEALING

Plaintiffs’ Motion concerns four documents:

Document	Description	Uber’s Request	Designating Party
[Unredacted] Plaintiffs’ Motion to Compel	Portion of briefing referring to documents and information designated confidential or highly confidential	Narrowed Redactions	Uber
[Unredacted] Declaration of Roopal P. Luhana	Portion of declaration referring to documents and information designated confidential or highly confidential	No Redactions	Uber
Exhibit A to Declaration of Roopal P. Luhana	1/27/25 Letter from V. Gromada	Redacted Version Filed on Docket	Uber
Exhibit B to Declaration of Roopal P. Luhana	1/31/25 Declaration of William Anderson	No Redactions	Uber
Exhibit C to Declaration of Roopal P. Luhana	Uber-produced document bates stamped UBER_JCCP_MDL002274069-77	Maintained Under Seal	Uber
Exhibit D to Declaration of Roopal P. Luhana	Uber-produced document bates stamped UBER_JCCP_MDL002273895-907	Maintained Under Seal	Uber
Exhibit E to Declaration of Roopal P. Luhana	Uber-produced document bates stamped UBER_JCCP_MDL002563882-93	Maintained Under Seal	Uber
Exhibit F to Declaration of Roopal P. Luhana	Uber-produced document bates stamped UBER_JCCP_MDL002267525-28	Maintained Under Seal	Uber

1 The documents at issue were cited in, or filed with, a brief on the production of policy
 2 documents and filed under seal by Plaintiffs on March 5, 2025 (ECF 2438, 2439).

3 These documents consist of confidential, non-public, internal business documents detailing
 4 proprietary business policies and procedures and, for one document, non-public email addresses of
 5 Uber employees. *See* Cummings Decl. ¶¶ 2-7. Disclosure of these documents would harm Uber's
 6 competitive standing. Uber therefore submits this statement requesting that the Court seal the exhibits
 7 under Local Rule 79-5(f)(3).

8 **II. LEGAL STANDARD**

9 Documents which do not relate directly to the merits of a case are properly sealed when a
 10 moving party makes "a particularized showing under the good cause standard of Rule 26(c)." *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (internal quotations
 11 and citations omitted); *see also Ctr. For Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101-02
 12 (9th Cir. 2016). Federal Rule of Civil Procedure 26(c) states that good cause may exist when issuing
 13 an order to seal is necessary to "protect a party or person from annoyance, embarrassment, oppression,
 14 or undue burden or expense." Fed. R. Civ. P. 26(c).

16 The documents here are related to briefing on the production of policy documents; they are not
 17 related to a dispositive motion. *See United States v. Selugh*, 896 F. 3d 1007, 1015 (9th Cir. 2018);
 18 *Brown v. Google LLC*, 2022 WL 4227545, at *1; *Adtrader, Inc. v. Google LLC*, 2020 WL 6387381 at
 19 *1 (N.D. Cal. Feb. 24, 2020). Therefore, the good cause standard applies. Discovery motion materials
 20 "are actually one step further removed in public concern from the trial process than the discovery
 21 materials themselves." *Selugh*, 896 F. 3d at 1015. District Courts have discretion to balance the
 22 interests of private parties and public disclosure when deciding to seal documents. *Kamakana*, 447
 23 F.3d at 1180.

24 Courts, including this Court, regularly seal confidential internal business policies under the
 25 good cause standard. *See* Sept. 3, 2024 Order, ECF 1559 at 2 (sealing documents with "substantive
 26 information about Uber's internal policies"); *see also, e.g. Adtrader, Inc. v. Google LLC*, 2020 WL
 27 6395528, at *2 (N.D. Cal. Feb. 11, 2020) (sealing Google policies and other documents related to

1 advertisements and payments); *Charles v. Target Corp.*, 2022 WL 3205047, at *3 (N.D. Cal. July 6,
 2 2022) (sealing document “detailing Target’s internal policies and procedures for guest incidents”);
 3 *Willis v. Colgate Palmolive Co.*, 2023 WL 11915708, at *5 (C.D. Cal. Jan. 5, 2023) (sealing documents
 4 that referred to pricing, sales data, and internal policy information); *Tetrault v. Cap. Grp. Companies*
 5 *Glob.*, 2023 WL 11876965, at *1-*2 (C.D. Cal. July 14, 2023) (sealing ethics policies and employee
 6 handbooks); *Mendell v. Am. Med. Response, Inc.*, 2021 WL 778624, at *3 (S.D. Cal. Mar. 1, 2021)
 7 (sealing internal policies for call center, including scripts). Sealing is justified based on the risk of
 8 competitive harm when public disclosure would provide competitors insight into a party’s “internal
 9 systems and operations, including details related to internal projects and their proprietary
 10 functionalities.” *Calhoun v. Google LLC*, 2022 WL 1122843, at *2 (N.D. Cal. Apr. 14, 2022).
 11 Information about internal systems and operations can place a company “at an increased risk of
 12 cybersecurity threats, as third parties may seek to use the information to compromise [the company’s]
 13 systems.” *Id.* at *2.

14 Good cause to seal also exists where the relevant documents are already protected from
 15 disclosure in a separate court proceeding and sealing is necessary to “avoid disparate treatment.” *In*
 16 *re Xyrem (Sodium Oxybate) Antitrust Litig.*, 2023 WL 3874024, at *2 (N.D. Cal. June 6, 2023); *Netlist*
 17 *Inc. v. Samsung Elec. Co., Ltd.*, 2024 WL 2429346, at *1 (C.D. Cal. May 8, 2024) (finding “good
 18 cause to seal . . . information from sealed court records from another case”).

19 “Courts in this circuit routinely seal email addresses and other personal identifying information
 20 under the compelling reasons standard due to the potential privacy harm to the individual whose
 21 contact information may be exposed.” *Jones v. PGA Tour, Inc.*, 2023 WL 7434197, at *2 (N.D. Cal.
 22 Oct. 5, 2023); *see also In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2 (N.D. Cal. Mar. 12,
 23 2021) (noting that “there are compelling reasons to seal customer names, . . . as well as employee email
 24 addresses”).

25 **III. UBER’S MATERIAL SHOULD BE KEPT UNDER SEAL**

26 The documents at issue were cited in, or filed with, a brief on the production of policy
 27 documents. These documents consist of confidential, non-public, internal business documents

1 detailing proprietary business policies and procedures and, for one document, non-public email
 2 addresses of Uber employees. *See* Cummings Decl. ¶¶ 2-7. Uber has a legitimate interest in sealing
 3 these documents in order to avoid harm to Uber's competitive standing. There are no less restrictive
 4 alternatives to sealing the documents. *See id.* ¶¶ 2-8.

5 **A. Failing to Seal the Documents Would Harm Uber**

6 **[Unredacted] Plaintiffs' Motion to Compel**

7 This document is Plaintiffs' Motion to Compel Production of Policy Documents and
 8 supporting brief, filed under seal on March 5, 2025 (ECF 2438, 2439).

9 Uber does not seek to maintain under seal the current redactions on page 1 and page 2 (through
 10 line 2) and page 3 (beginning with line 18) through page 4. Uber attaches a version of this document
 11 with narrowed redactions as Exhibit 1 to this filing.

12 The redactions which Uber seeks to maintain are found on page 2 (beginning with line 12)
 13 through page 3 (through line 17)—citing and pasting screenshots of Uber's confidential internal policy
 14 documents. The redacted portions provide details regarding four different internal Uber policy and
 15 procedure documents, including their names, details regarding their contents, and screenshots from
 16 the documents. The redacted portions include non-public, proprietary information, including, for
 17 example, details on how Uber employees can identify suspected fraud. Uber has expended significant
 18 resources developing its internal policies and procedures. Therefore, disclosure of this information
 19 risks harm to Uber through its competitors utilizing the information and copying processes. The
 20 information could also be used to manipulate Uber's reporting process or to evade detection of fraud.
 21 *See* Cummings Decl. ¶ 2. The redacted portions detailing Uber's internal policies and procedures
 22 should be maintained under seal. *See* Sept. 3, 2024 Order, ECF 1559 at 2; *see also, e.g.* *Adtrader,*
 23 *Inc.*, 2020 WL 6395528, at *2; *Charles*, 2022 WL 3205047, at *3; *Willis*, 2023 WL 11915708, at *5;
 24 *Tetrault*, 2023 WL 11876965, at *1-*2; *Mendell*, 2021 WL 778624, at *3; *Calhoun*, 2022 WL
 25 1122843, at *2.

26 **Exhibit A: January 27, 2025 Letter from V. Gromada**

27 This document is an exhibit to the Declaration of Roopal P. Luhana in Support of Plaintiffs'

1 Motion to Compel Production of Policy Documents, filed under seal on March 5, 2025 (ECF 2438,
 2 2439).

3 Uber does not seek to maintain this document under seal in its entirety. Instead, Uber requests
 4 that a portion of footnote 1 on pages 4 and 5 be redacted and maintained under seal. Uber attaches a
 5 redacted version of this document as Exhibit 2 to this filing.

6 This document is a letter to Plaintiffs' counsel from Uber's counsel Veronica Gromada. The
 7 redacted portion of this letter cites to and quotes from the transcript from another case in which
 8 Plaintiffs' counsel here, Bret Stanley, was opposing counsel, and in the JCCP. Those transcripts are
 9 subject to a protective order which prohibits their public disclosure. The redacted portion also contains
 10 questioning and testimony detailing Uber's process for making and communicating policy changes.
 11 *See Cummings Decl. ¶ 3. See In re Xyrem, 2023 WL 3874024, at *2; Netlist Inc., 2024 WL 2429346,*
 12 *at *1; see also, e.g. Adtrader, Inc., 2020 WL 6395528, at *2; Charles, 2022 WL 3205047, at *3; Willis,*
 13 *2023 WL 11915708, at *5; Tetrault, 2023 WL 11876965, at *1-*2; Mendell, 2021 WL 778624, at *3;*
 14 *Calhoun, 2022 WL 1122843, at *2.*

15 **Exhibit C: Document Bates-stamped UBER_JCCP_MDL002274069-77**

16 This document is an exhibit to the Declaration of Roopal P. Luhana in Support of Plaintiffs'
 17 Motion to Compel Production of Policy Documents, filed under seal on March 5, 2025 (ECF 2438,
 18 2439).

19 This document is an internal guide document titled “[Global Safety] Taxonomy | Categories
 20 and Definitions.” It was produced by Uber in this litigation, Bates stamped as
 21 UBER_JCCP_MDL002274069-77, and designated as Confidential pursuant to the protective order in
 22 this litigation. The document provides guidance on the application of Uber’s policies, namely its
 23 Global Safety Taxonomy, on a range of issues, such as “vehicle crash or claim.” The guidance
 24 explains how Uber’s Taxonomy is applied in particular situations, such as how to categorize reports
 25 of Uber Eats drivers suspected of stealing food. While Uber has publicly disclosed a general overview
 26 of its Global Safety Taxonomy in its U.S. Safety Reports, the information in this document is not
 27 publicly available. This policy guidance in this document is non-public, proprietary information. Uber

1 has expended significant resources developing its internal policies and procedures and related
 2 guidance documents, such as this document. Therefore, disclosure of this document risks harm to
 3 Uber through its competitors utilizing the information and copying processes. The information in this
 4 document could also be used to manipulate Uber's reporting process. *See* Cummings Decl. ¶ 4. This
 5 document should be maintained under seal. *See* Sept. 3, 2024 Order, ECF 1559 at 2; *see also, e.g.*
 6 *Adtrader, Inc.*, 2020 WL 6395528, at *2; *Charles*, 2022 WL 3205047, at *3; *Willis*, 2023 WL
 7 11915708, at *5; *Tetrault*, 2023 WL 11876965, at *1-*2; *Mendell*, 2021 WL 778624, at *3; *Calhoun*,
 8 2022 WL 1122843, at *2.

9 **Exhibit D: Document Bates-stamped UBER_JCCP_MDL002273895-907**

10 This document is an exhibit to the Declaration of Roopal P. Luhana in Support of Plaintiffs'
 11 Motion to Compel Production of Policy Documents, filed under seal on March 5, 2025 (ECF 2438,
 12 2439).

13 This document is an internal guide document titled “[Global Safety] Potential Safety Concern.”
 14 It was produced by Uber in this litigation, Bates stamped as UBER_JCCP_MDL002273895-907, and
 15 designated as Confidential pursuant to the protective order in this litigation. The document provides
 16 guidance on the application of Uber's policies, namely its policies on handling reports of safety
 17 concerns or potential safety concerns, such as suspected drug dealing or an unauthorized guest of a
 18 driver in the vehicle. The document provides detailed guidance on how to classify various reported
 19 factual scenarios. The document also provides numerous examples of qualifying and non-qualifying
 20 examples of reports for each category of safety concern. This policy guidance in this document is not
 21 publicly available and is proprietary information. Uber has expended significant resources developing
 22 its internal policies and procedures and related guidance documents, such as this document. Therefore,
 23 disclosure of this document risks harm to Uber through its competitors utilizing the information and
 24 copying processes. The information in this document could also be used to manipulate Uber's
 25 reporting process. *See* Cummings Decl. ¶ 5. This document should be maintained under seal. *See*
 26 Sept. 3, 2024 Order, ECF 1559 at 2; *see also, e.g.* *Adtrader, Inc.*, 2020 WL 6395528, at *2; *Charles*,
 27 2022 WL 3205047, at *3; *Willis*, 2023 WL 11915708, at *5; *Tetrault*, 2023 WL 11876965, at *1-*2;

1 *Mendell*, 2021 WL 778624, at *3; *Calhoun*, 2022 WL 1122843, at *2.

2 **Exhibit E: Document Bates-stamped UBER_JCCP_MDL002563882-93**

3 This document is an exhibit to the Declaration of Roopal P. Luhana in Support of Plaintiffs' Motion to Compel Production of Policy Documents, filed under seal on March 5, 2025 (ECF 2438, 2439).

6 This document is an internal guide document titled “[US&C] Safety Support Resources.” It
 7 was produced by Uber in this litigation, Bates stamped as UBER_JCCP_MDL002563882-93, and
 8 designated as Confidential pursuant to the protective order in this litigation. The document provides
 9 guidance on Uber’s reporting futures and various features within its internal systems, tools, and
 10 policies, within the broad categories of trip identification, account actions, communication, and
 11 escalations. For example, the document provides detailed guidance on topics such as escalating
 12 contacts from Tier 1 to Tier 2 agents and resolving duplicate reports. This policy guidance in this
 13 document is not publicly available and is proprietary information. Uber has expended significant
 14 resources developing its internal policies and procedures and related guidance documents, such as this
 15 document. Therefore, disclosure of this document risks harm to Uber through its competitors utilizing
 16 the information and copying processes. The information in this document could also be used to
 17 manipulate Uber’s reporting process. *See Cummings Decl.* ¶ 6. This document should be maintained
 18 under seal. *See* Sept. 3, 2024 Order, ECF 1559 at 2; *see also, e.g. Adtrader, Inc.*, 2020 WL 6395528,
 19 at *2; *Charles*, 2022 WL 3205047, at *3; *Willis*, 2023 WL 11915708, at *5; *Tetrault*, 2023 WL
 20 11876965, at *1-*2; *Mendell*, 2021 WL 778624, at *3; *Calhoun*, 2022 WL 1122843, at *2.

21 **Exhibit F: Document Bates-stamped UBER_JCCP_MDL002267525-28**

22 This document is an exhibit to the Declaration of Roopal P. Luhana in Support of Plaintiffs' Motion to Compel Production of Policy Documents, filed under seal on March 5, 2025 (ECF 2438, 2439).

25 The metadata page of this exhibit contains numerous non-public email addresses of Uber
 26 employees. While the entire document should be sealed, at a minimum, these email addresses should
 27 be redacted. *Jones* 2023 WL 7434197, at *2; *In re Pac. Fertility Ctr. Litig.*, 2021 WL 1082843, at *2.

1 This document is a draft policy document titled “US & Canada Quality Management Central
2 Review Process.” It was produced by Uber in this litigation, Bates stamped as
3 UBER_JCCP_MDL002267525-28, and designated as Confidential pursuant to the protective order in
4 this litigation. It contains the details of Uber’s interpersonal conflict policy and how reports within
5 the scope of this policy are handled, including reviews for deactivations of independent drivers. The
6 information in this documents is confidential, non-public, and proprietary. Uber has expended
7 significant resources developing its internal policies and procedures and related guidance documents,
8 such as this document. Therefore, disclosure of this document risks harm to Uber through its
9 competitors utilizing the information and copying processes. *See* Cummings Decl. ¶ 7. This document
10 should be maintained under seal. *See* Sept. 3, 2024 Order, ECF 1559 at 2; *see also, e.g.* *Adtrader,*
11 *Inc.*, 2020 WL 6395528, at *2; *Charles*, 2022 WL 3205047, at *3; *Willis*, 2023 WL 11915708, at *5;
12 *Tetrault*, 2023 WL 11876965, at *1-*2; *Mendell*, 2021 WL 778624, at *3; *Calhoun*, 2022 WL
13 1122843, at *2.

B. Less Restrictive Alternative to Sealing is Insufficient to Prevent Harm

15 No less restrictive alternative to sealing the documents at issue is sufficient. *See Cummings*
16 *Decl.* ¶ 2-9. Uber has already substantially narrowed its request to seal from the material in Plaintiffs'
17 Motion by narrowing the redactions in one document, not requesting to seal or redact two documents,
18 and proposing a narrow redaction to one document rather than sealing it in full. Actions short of
19 sealing the documents requested by Uber would not protect Uber's competitive standing and the
20 legitimate privacy interests of Uber employees.

21 | IV. CONCLUSION

22 For the foregoing reasons, Uber respectfully requests that the Court order that these documents
23 listed above be maintained under seal.

24 DATED: March 11, 2025

Respectfully submitted,

SHOOK HARDY & BACON L.L.P.

By: /s/ Veronica Gromada
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